

TITLE 10. CALIFORNIA DEPARTMENT OF CORPORATIONS FINDING OF EMERGENCY

Pursuant to Government Code Section 11346.1, The California Corporations Commissioner ("Commissioner") amends Title 10, Chapter 3, Subchapter 6, Article 2 of the California Code of Regulations under the CALIFORNIA FINANCE LENDERS LAW by adopting sections 1422 and 1423 as emergency regulations. The emergency regulation relates to long and short form applications for licensure under this law.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under the California Finance Lenders Law ("CFLL"), the Department of Corporations ("Department") licenses and regulates finance lenders and brokers conducting business in this state. The CFLL provides that no person shall engage in the business of a finance lender or broker without obtaining a license from the Commissioner. (Financial Code Section 22100.) The CFLL further provides that the application for a finance lender or broker's license shall be in the form and contain the information that the Commissioner may by rule require. (Financial Code Section 22101, subdivision (a).) The Commissioner may also establish a short form application and procedure for use by a licensee with one or more licensed locations who is seeking an additional location license. (Financial Code Section 22102.)

The Department's application form is used by applicants seeking to become licensed as finance lenders or brokers. The form is available to the public either at the Department's offices or on its web site at www.corp.ca.gov. However, this form has not been formally adopted as a regulation pursuant to the Administrative Procedure Act ("APA"). (Government Code Section 11370, et seq.) Nor has a short form application been adopted as a regulation.

Accordingly, in order to comply with the APA, the Department proposes to add Section 1422 to Title 10, Chapter 3, Subchapter 6, Article 2 of the California Code of Regulations, the text of which will be the "Application For a License Under the California Finance Lenders Law." The Department further proposes to add Section 1423 to this title and chapter, to enable applicants who qualify to file a short form application for licensure with the Department.

AUTHORITY

Section 22150, Financial Code.

REFERENCE

Sections 22101, subdivision (a), and 22102, Financial Code.

FINDING OF EMERGENCY

This emergency regulation is necessary for the immediate preservation of the public peace, health, safety, or general welfare for the reasons set forth below.

Proposed Section 1422 contains the “Application for a License Under the California Finance Lenders Law” (“Application”). Generally, the application form needs to be added to the regulations because it has not been adopted as required by the APA, and is not contained elsewhere in the CFLL or regulations.

In order for a person to engage in business as a lender and/or broker under the CFLL, an application for licensure must first be filed with the Department. (See Financial Code Section 22100.) This rule adopting the Application is necessary to ensure that the Department obtains the information needed to make a determination that the applicant meets the specified requirements for licensure under the CFLL, and to provide the applicant notice of the information that will be necessary for the Department to make such a determination. Additionally, Financial Code Sections 22101, subdivision (a), and 22102 expressly authorize the Department to set forth the form of the application by regulation.

The adoption of the regulation on an emergency basis is necessary to prevent interruption of the existing licensing process. Any challenge to the validity of the application form would prolong the application process thereby delaying the applicants' ability to engage in business as finance lenders or brokers. As a consequence, fewer lenders and brokers would be available to the consumers in this state who wish to apply for loans offered under this law, thus restricting consumer choice and consumer access to a variety of loan products. The emergency regulation is therefore necessary to prevent a negative impact both on businesses who wish to engage in consumer lending and on consumers requiring loans. For these reasons, the proposal is needed to preserve the validity of the application form and its utility to prospective lenders and consumers.

Section 1423 contains the “Short Form Application for a License Under the California Finance Lenders Law” (“Short Form”). Generally, the Short Form needs to be added to the regulations because it has not been adopted as required by the APA, and is not contained elsewhere in the CFLL or regulations.

Financial Code Section 22102 provides that a licensee who has one or more licensed locations and is seeking an additional location may file a short form Application as the Department may establish under Section 22101. This rule adopting the Short Form is necessary to ensure that the Department obtains the information needed to determine whether the applicant meets the requirements to obtain a subsequent license using the short form Application, as provided by Section 22102.

The emergency regulation is necessary to provide CFLL applicants with an efficient means by which they may add additional business locations without duplicating the original application process. Experience has shown that a substantial number of applicants can rely on the proposed short form. The emergency regulation will result in immediate cost savings to applicants, which in turn will enable applicants to more quickly and efficiently add additional business locations and will provide consumers with more options and greater access to loan products offered by these licensees. The expedited application

process will benefit not only applicants and consumers, but also the Department, as the costs of processing the short form applications will be less than if a new complete application was required each time a lender opened a new location.

It is noteworthy this rulemaking is a product of a departmental working group comprised of industry representatives and experienced staff, and convened for the purpose of reviewing and developing the application forms which are now being adopted as regulations.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The proposed regulation does not impose a mandate on local agencies and school districts. No other direct or indirect costs or savings to local agencies or school districts required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, of the Government Code, or other non discretionary cost or savings imposed on local agencies are applicable.

COST OR SAVINGS TO STATE AGENCY

No other nondiscretionary costs or savings to state agencies. No direct or indirect costs or savings to the state or in federal funding.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the text of the proposed regulations, may be directed to Kathy Womack at (916) 322-3553. The backup contact person is Karen Fong at (916) 322-3553. Comments or inquiries regarding the substance of the proposed regulation may be directed to:

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Copies of this emergency regulation and any supporting documents are also available on the Department's website at www.corp.ca.gov.

Dated: March 12, 2002
Sacramento, California

DEMETRIOS A. BOUTRIS
California Corporations Commissioner

By _____
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